

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

APPEAL NO:

In Re Application of: Haynes, et al.

Confirmation No. 9390

Serial No.: 10/717,888

Filed: June 24, 2008

Title: METHOD AND SYSTEM FOR FILTERING
THE DISPLAY OF FILES IN GRAPHICAL INTERFACES

REPLY BRIEF ON APPEAL

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In Re Application of:	Date: August 25, 2008
Thomas R. Haynes, et al.	Confirmation No. 9390
Serial No.: 10/717,888	Group Art Unit: 2179
Filed: November 20, 2003	Examiner: Weiner, Eric A.
For: METHOD AND SYSTEM FOR FILTERING THE DISPLAY OF FILES IN GRAPHICAL INTERFACES	

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

REPLY BRIEF ON APPEAL

Pursuant to 37 CFR 41.41(a)(1), Appellant responds to the points raised in the Examiner's Answer mailed June 24, 2008, as follows:

(1) Real Party in Interest

A statement identifying the real party in interest is contained in the Appeal Brief.

(2) Related Appeals and Interferences

A statement identifying the related appeals and interferences is contained in the Appeal Brief.

(3) Status of Claims

A statement identifying the status of the claims is contained in the Appeal Brief.

(4) Status of Amendments

A statement identifying the status of amendments is contained in the Appeal Brief.

(5) Summary of Claimed Subject Matter

A summary of the claimed subject matter is contained in the Appeal Brief.

(6) Grounds of Rejection to be Reviewed on Appeal

A statement identifying the grounds of rejection to be reviewed on appeal is contained in the Appeal Brief.

(7) Response to Examiner's Answer

1. Examiner's Answer, Page 15, Section (10), Regarding the 35 USC 102(b) rejection of Claim 1

The Examiner stated in Section 10, Part 1b, "De Vorchik teaches that *each selectable item corresponds to a different range of values*, because for example, the filtering criterion pertaining to color of Fig. 10 ... corresponds to a range of colors... In addition, the filtering criterion pertaining to date of Figs. 15 and 16... allows a user to filter by 'a range of time around the specified date.' Therefore, because colors and dates correspond to different values themselves, De Vorchik sufficiently teaches that each selectable item corresponds to a different range of values."

The Examiner also stated in part 1c, "De Vorchik teaches that *the different ranges of values for the selectable items are based on the file objects present in the file object set that is being filtered for display of the file objects*, because the items such as "Agency," "Color," "Model," "Price," "Name," "Type," "Path," "Date," "Modified," "Author," "Title," and "UNCPATH" disclosed in Figs. 3-11, 14, and 15 correspond to selectable

items to filter by, wherein each of these selectable items corresponds to a different range of values, and furthermore, ... the ‘attributes’ and ‘labels for the attributes’ that correspond to these different ranges may be ‘gleaned from the data set’ and ‘vary based on the data set.’”

However, none of the selectable item embodiments disclosed in De Vorchik both provides a selectable item that corresponds to a range of values, and is based on the file objects present in the file object set that is being filtered for display. For example, in part 1b the Examiner listed two of De Vorchik’s embodiments, the color filtering of Fig. 10 and the date filtering of Figs. 15 and 16, which have items that correspond to ranges of values. However, the color filtering items of the color menu of Fig. 10 are not based on file objects present in the file object set being filtered. De Vorchik does not specify any details about how the color menu is determined; the menu appears to always include the entire color spectrum to present the user with the ability to select any desired color choice, regardless of the data set to be filtered, and thus is independent of the data set. Likewise, De Vorchik’s calendar window of Figs. 15 and 16 always displays the same standard calendar days to select regardless of the data to be filtered, and does not have selections with different ranges based on the data set to be filtered. The other embodiments disclosed by De Vorchik likewise do not disclose Applicant’s recited combination.

The Examiner stated that De Vorchik discloses that “the ‘attributes’ and ‘labels for the attributes’ that correspond to these different ranges may be “gleaned from the data set” and “vary based on the data set”” as disclosed at De Vorchik, col. 6, lines 55-61. However, this general statement in De Vorchik makes no reference to ranges of values

represented by selectable items, nor embodiments including selectable items that both correspond to a range of values, and are based on file objects present in the file object set being filtered for display.

Thus, Appellant believes that De Vorchik does not disclose selectable items which both correspond to a range of values, and are based on the file objects present in the file object set that is being filtered for display. Nor are any such item embodiments suggested by De Vorchik.

2. Examiner's Answer, Page 15, Section (10), Regarding the 35 USC 102(b) rejection of Claims 2 and 3

With regard to claim 2, the Examiner stated that, related to De Vorchik's disclosure at col. 6, line 46 to col. 7, line 6 and 46-53, "it has been interpreted that a 'header control' corresponds to a label object, wherein said header control is launched by the user, and the attributes and labels of attributes are associated with the header control, because they are known 'when the control is launched,' which has been interpreted to mean that the associated labels and attributes are determined by a header control being launched." With regard to claim 3, the Examiner stated that De Vorchik discloses a "'data set' and 'listview control' may be displayed upon or after selection ... where the 'data set' and 'listview control' correspond to the menu of plurality of selectable items."

However, it is noted that the "data set" and "listview control" of De Vorchik are related to displaying data set objects such as file objects, directories, or the like. Thus, the data set and listview control cannot correspond to the menu of selectable items, since those

objects do not each describe a different filtering criterion and correspond to a different range of values, as do the recited selectable items of parent claim 1.

3. Examiner's Answer, Page 15, Section (10), Regarding the 35 USC 102(b) rejection of Claims 13

With regard to claim 13, the Examiner stated that, with regard to De Vorchik's disclosure at col. 10, lines 27-41, "if an item is characterized by color, then ... a range of color data stored in quantitative form is an *actual range* that therefore corresponds to a color characteristic." However, any range of color data stored in quantitative form by De Vorchik is either the entire implemented color range from which the user can select (as in the menu 402 of Fig. 10), or is a set of colors based on the user's selection of a color in the menu 402 (using the "Is close to" option). Nowhere does De Vorchik disclose or suggest that ranges of values for selectable items are based on actual ranges of an associated characteristic of the file objects of the file object set. For example, De Vorchik nowhere discloses or suggests showing ranges of color values in a menu as selectable items for filtering, the color values in those ranges based on actual ranges of colors of the file objects in the data set.

The Examiner stated that it would have been obvious to one of ordinary skill to "take into account actual values of associated characteristics of file objects of the file object set in determining ranges of values for selectable items, because specific values to use for filtering may correspond to values within a range, and therefore a specific range to be filtered would be an obvious modification." However, just because specific values to use for filtering may correspond to values within a range does not automatically lead to

using ranges based on actual values as selectable items. As explained in the appeal brief, De Vorchik discloses the ability to filter values, but completely fails to disclose or suggest filtering using selectable items that correspond to ranges of values based on the actual ranges of filtered data object characteristics, despite benefits to doing so. Appellant believes that the subject matter of claim 13 would not be obvious in view of De Vorchik.

4. Examiner's Answer, Page 15, Section (10), Regarding the 35 USC 102(b) rejection of Claims 61

With regard to claim 61, the Examiner stated that claim 61 would be obvious for reasons similar to claim 13, and that De Vorchik discloses that “a range of colors may correspond to being ‘numerically within’ a range pertaining to a color. Therefore it would be obvious that in order to be ‘numerically within’ something, there would be some sort of bounding limits that would correspond to two extreme values to define the range that corresponds to being ‘numerically within.’” However, although two extreme values define a range, it is not obvious to base the different ranges on the distribution of actual values, nor is it obvious to evenly divide ranges between the two extreme values and use those evenly divided ranges as selectable items for filtering as recited in Appellant's claims. For example, a desire to filter using a range of values within the limited range could lead to many other implementations, such as setting predetermined, constant sizes of ranges of values to filter attributes of all data sets. Such ranges would not lead one of ordinary skill to use the evenly-divided ranges recited by claim 61.

Conclusion

De Vorchik does not disclose or suggest the claimed inventions as argued above and in the Appeal Brief. Appellant, therefore, respectfully submits that the pending claims are not properly rejected under §§ 102 and 103.

For these reasons, and the reasons stated in the Appeal Brief, Appellant submits that the final rejection should be reversed.

Please apply any charges or credits to Deposit Account No. **50-0563**.

Respectfully submitted,
SAWYER LAW GROUP LLP

November 26, 2008

/ Joseph A. Sawyer, Jr./
Joseph A. Sawyer, Jr.
Attorney for Appellant
Reg. No. 30,801
(650) 493-4540

Customer Number: 47052